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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,014	03/01/2002	Henrik Hansen	12013/59301	2646
23838	7590	05/03/2004		EXAMINER
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005				MICHENER, JENNIFER KOLB
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AC

Office Action Summary	Application No.	Applicant(s)
	10/087,014	HANSEN ET AL.
	Examiner	Art Unit
	Jennifer K Michener	1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 and 18-28 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16, 18, 19, 25-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I is acknowledged.

Claim Rejections - 35 USC § 112

2. The rejection of claims 14 and 15 under 35 U.S.C. 112, second paragraph, has been withdrawn based on Applicant's clarification.

Claim Rejections - 35 USC § 102

3. The rejection of claims 1-4 and 25-28 under 35 U.S.C. 102(e) as being anticipated by Schwarz et al. (US 6,368,658 B1) has been withdrawn, as necessitated by Applicant's amendment.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-16, 18-19, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz et al. (6,607,598) in view of Forster (4,581,242). The rejection of claims 5-16 and 18-19 has been maintained.

The rejection of claim 17 has been withdrawn as necessitated by Applicant's cancellation of the claim.

Claims 1-4 and 25-28 have been added to this rejection, as necessitated by Applicant's amendment, for the same reasons as this rejection is applied to claims 5-16 and 18-19.

Examiner addresses only the newly-added limitations within the claims herein:

Because the active rotation limitation was added to claim 1, Examiner has included this claim, and those depending therefrom, in this rejection. Schwarz '598 teaches substantially the same method as Schwarz '658, as originally applied as a 102, and is combined with Forster for the same reasons as applied to claims 5-16 and 18-19, namely that Schwarz '598 teaches drum coating and pan-coating of medical implants and Forster provides the specifics of such an operation.

Claims 5 and 25 now require rotation "about an axis" in a drum with a "plurality of orifices in the wall". Forster teaches rotation about an axis (see Figures) and a drum made of wire mesh, which qualifies as "orifices" (see Figure 4; col. 3, line 2).

Claims 7, 9, 12, 13, 19, now independent and including all the limitations of their previous parent claim, are rejected for the same reasons as provided in the previous office action.

Claim 6 is rejected for those reasons applied to claim 19 and additionally because collection of any fluid inherently requires a reservoir.

Response to Arguments

6. Applicant's arguments filed 2/2004 have been fully considered but they are not persuasive.

Applicant argues that the cited references do not disclose a drum with orifices in the wall.

Examiner disagrees for those reasons disclosed above, namely, that the drum, including the walls, of Forster may be made of wire mesh, the holes between the wires meeting the limitation of "orifices". See Figure 4 and col. 3, line 2.

Applicant argues that the processing temperature of Schwarz applies only to the temperature *when* coating, not *after* coating, so that the limitation of "heating...after spraying" has not been met.

Examiner disagrees.

Examiner believes that the quotation provided by Applicant has been taken slightly out of context. Applicant argues that Schwarz teaches only controlling temperature "*when coating with drugs or polymers*" (emphasis added), however, this excerpt, in full, states that temperature is controlled "*when coating with drugs or polymers that degrade...upon exposure to specific environments....Thus, operating temperatures in at least some embodiments ...are... between 0° C.-200° C....Thus operating temperatures compatible with all of the coatings materials disclosed herein can be established and maintained in the apparatuses and methods of the present invention.*" Therefore, Schwarz is clearly

not teaching that temperature is regulated only during spraying, but rather that temperature is regulated during the entire coating operation when using drugs or polymers which degrade, as evidenced by the fact that Schwarz teaches "maintaining" the temperature, as outlined in the previous office action.

Additionally, for example only, see Example 1. In this case, Schwarz teaches coating and then maintaining the heated air flow, after coating has been stopped, until the stents are dry, therefore this reference teaches heating that continues after spraying, as required by Applicant.

Applicant argues that since the references are silent regarding recycling, that it is erroneous for Examiner to assert that it would have been obvious to recycle therapeutic agent that did not adhere to the implant during spraying.

Examiner disagrees and maintains her argument that it would have been obvious to an ordinary artisan to recycle expensive pharmaceuticals lost in a spray-coating operation. Recycling of high-value coating materials would have been immediately envisioned by one of ordinary skill in the art. Additionally, the use of fume hoods and negative pressure spray-coating booths is well-known in the art of spraying for capturing lost materials. However, Applicant requested Examiner to cite a prior art reference regarding recycling and she does so herein. Mehta (6,627,246) is cited for teaching that spray-coating is known in the art to be problematic, especially when using costly pharmaceutical agents as coatings, because the overspray creates "lost" materials (col. 1, lines 53-56). Examiner cites Hossainy (6,555,157) for teaching spray-coating stents

with a composition including a therapeutic agent and recycling the coating material to reduce waste and cost because the recycled materials can be recovered for use in coating other stents (col. 3, lines 38-45; col. 5, line 44; claims).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer K Michener whose telephone number is (571) 272-1424. The examiner can normally be reached on Monday through Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 571-272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Kolb Michener
Patent Examiner
Technology Center 1700
April 30, 2004